IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.11214 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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KUTIYANA NAGARPANCHAYAT

Versus

PURSHOTTAMGIRI GAJARAJGIRI APARNATHI

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Appearance:

1. Special Civil Application No. 11214 of 2004

MR. P.S. GOGIA for Petitioner

MR. AMAR D. MITHANI for Respondent

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CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 23/02/2005

ORAL JUDGEMENT

1. Rule.

Mr.Amar D.Mithani, learned Advocate, appears and waives service of Rule on behalf of the respondent.

At the request of Mr.P.S.Gogia, learned Advocate for the petitioner, and with the consent of Mr.Amar D.Mithani, learned Advocate for the respondent, the

matter is taken up for final disposal.

2. The petitioner-Kutiyana Nagar Panchayat, is before this Court being aggrieved of Judgement and Award dated 22nd December, 2003 passed by the learned Presiding Officer of the Labour Court, Junagadh in Reference (LCJ) No.1246 of 1990 (New) [Old Reference (LCR) No.1369/1988]. The learned Presiding Officer of the Labour Court was pleased to partly allow the Reference, directing the petitioner to reinstate the respondent-workman on his original post, with 25% back-wages, within 30 days from the publication of the award. The learned Presiding Officer was also pleased to award costs of Rs.250=00 to the respondent-workman.

3. The respondent-workman has filed an affidavit before this Court wherein, in paragraph, it is stated as under:

> "... ... ... I say and submit that I have completely lost my eye sight and have taken treatment from various hospitals, General Hospital, Porbandar, in that regard has issued a certificate and has certified 100% disablement. Copy of the said certificate dated 23.1.2003 is annexed hereto and marked as ANNEXURE-A to this affidavit."

Mr.Amar D.Mithani, learned Advocate appearing for the respondent-workman, submitted that in view of the aforesaid circumstances, the award, in favour of the respondent-workman ordering reinstatement, is of no consequence and, therefore, he requested that instead of `reinstatement', the petitioner-Nagar Panchayat be directed to pay some reasonable amount by way of lump sum so as to see that the respondent-workman gets some support towards his livelihood. Mr.Mithani further submitted that the learned Presiding Officer is pleased to award 25% back-wages only from 4th May, 2000, which works out to Rs.4,500=00 approximately. He submitted that, therefore, to see that the respondent-workman is provided some help to support himself in later part of his life, the Court may award lump sum, to be paid to the respondent-workman by the petitioner-Nagar Panchayat.

4. Taking into consideration the fact that the respondent-workman had put in 10 years' service and the fact that there is an award in favour of the respondent-workman for reinstatement on his original post, this Court deems it fit to direct the petitioner-Nagar Panchayat to pay a sum of Rs.45,000=00

(Rupees Forty Five Thousand Only) to the respondent-workman. Order accordingly. The petitioner-Nagar Panchayat shall pay the said amount as early as possible, but, not later than 31st March, 2005, by an account payee cheque in the name of the respondent-workman, to be delivered to the respondent-workman by Registered Post A.D. letter.

With the aforesaid direction, the petition is disposed of. Rule is made absolute. No order as to costs.

(Ravi R. Tripathi, J.)

kamlesh*